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COMMITTEE ON THE PEACEFUL
USES OF OUTER SPACE

REPORT OF THE LEGAL SUBCOMMITTEE ON THE WORK OF ITS THIRTY-FOURTH SESSION (27 MARCH-7 APRIL 1995)

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INTRODUCTION

Opening of the session

1. The Legal Subcommittee held its thirty-fourth session at the United Nations Office at Vienna from 27 March to 7 April 1995 under the chairmanship of Mr. Václav Mikulka (Czech Republic).

2. At its opening, 580th meeting, the Chairman made a statement briefly describing the work to be undertaken by the Subcommittee at its current session and welcomed the new members of the Committee to the Subcommittee. A summary of the Chairman's statement is contained in document A/AC.105/C.2/SR.580.

Adoption of the agenda

3. At the opening meeting, the Subcommittee adopted the following agenda:

1. Opening of the session.

2. Statement by the Chairman.

3. Question of early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

4. Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.

5. Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries.

Attendance

4. Representatives of the following States members of the Subcommittee attended the session: Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, Egypt, France, Germany, Greece, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Lebanon, Mexico, Morocco, Netherlands, Nicaragua, Nigeria, Pakistan, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, South Africa, Spain, Sudan, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela.

5. Representatives of the following specialized agencies and international organizations attended the session: United Nations Educational, Scientific and Cultural Organization (UNESCO), International Telecommunication Union (ITU), International Atomic Energy Agency (IAEA), European Space Agency (ESA), International Astronautical Federation (IAF), International Law Association (ILA) and International Organization of Space Communications (INTERSPUTNIK).

6. The Chairman informed the Subcommittee at its 580th, 583rd and 584th meetings that requests to participate in meetings of the Subcommittee had been received from Algeria, Libyan Arab Jamahiriya, Panama, Peru, Thailand, Tunisia and the League of Arab States. The Subcommittee agreed that, since the granting of observer status was the prerogative of the Committee on the Peaceful Uses of Outer Space, the

Subcommittee could take no formal decision on the matter, but that the representatives of Algeria, Libyan Arab Jamahiriya, Panama, Peru, Thailand, Tunisia and the League of Arab States might attend the formal meetings of the Subcommittee and could direct requests for the floor to the Chairman, should they wish to make statements.

7. A list of representatives of States members of the Subcommittee, States not members of the Subcommittee, specialized agencies and other organizations attending the session, and of the secretariat of the Subcommittee, is contained in document A/AC.105/C.2/INF.27.

Organization of work

8. In accordance with decisions taken at its opening meeting, the Subcommittee organized its work as follows:

(a) Pursuant to the recommendation of the Committee on the Peaceful Uses of Outer Space, the yearly rotation of the order of consideration of substantive agenda items 3, 4 and 5 on a permanent basis (as recommended by the Committee in A/45/20, para. 143) was suspended for the present session, and the Subcommittee considered the three substantive items on its agenda (see paragraph 3 above) in the same order as in 1994: items 4, 5 and 3 (A/49/20, para. 168);

(b) In accordance with the decision of the Committee on the Peaceful Uses of Outer Space (A/49/20, para. 167), the Subcommittee agreed to suspend, for the present session, its Working Group on agenda item 3;

(c) It re-established its Working Group on agenda item 4, open to all members of the Subcommittee, and agreed that Mr. Eugenio María Curia, the representative of Argentina, should serve as its Chairman;

(d) It re-established its Working Group on agenda item 5, open to all members of the Subcommittee, and agreed that Mr. Raimundo González, the representative of Chile, should serve as its Chairman;

(e) Extensive, open-ended informal consultations were held among all members of the Legal Subcommittee on the working methods and agenda of the Subcommittee including the consideration of possible additional items for inclusion on its agenda, in accordance with the report of the Committee on the Peaceful Uses of Outer Space (A/49/20, paragraph 160 and annex) and General Assembly resolution 49/34, paragraph 8 of 9 December 1994.

(f) It began its work each day with a plenary meeting to hear delegations wishing to address the Subcommittee, and then adjourned and reconvened, when appropriate, as a working group, or began its work as a working group.

9. The following delegations participated in the general exchange of views: Argentina, Australia, Austria, Brazil, Bulgaria, Chile, China, Colombia, Cuba, Czech Republic, Ecuador, Germany, India, Indonesia, Italy, Mexico, Republic of Korea, Romania, Russian Federation, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, as well as ITU, INTERSPUTNIK and IAF. The views expressed by those delegations are summarized in documents A/AC.105/C.2/SR.580-584.

10. The Working Group on agenda item 4 held 7 meetings. The Working Group on agenda item 5 held 6 meetings.

11. The chairmen of the working groups reported to the Subcommittee at its 588th meeting, on 7 April (see annexes I and II to the present report). The Subcommittee took note with appreciation of the reports and of the work done in the working groups.

12. At the opening meeting, the Chairman made a statement concerning the utilization of conference services by the Subcommittee. He drew attention to the importance the General Assembly and the Committee on Conferences attached to the effective utilization of conference services by all United Nations deliberative bodies and noted that the percentage of the use of conference services by the Subcommittee had improved lately. In view of that, the Chairman proposed and the Subcommittee agreed that the following measures, similar to those adopted in the past, should also be adopted at the current session of the Subcommittee:

(a) The Subcommittee and its working groups should begin their meetings punctually at the scheduled time, even if there was no quorum (16 members);

(b) Conference services should be notified as early as possible whenever it was anticipated that any of the services usually provided were not going to be required. If possible, prior notice of 24 hours should be given;

(c) Informal consultations (i.e. outside the auspices of the Subcommittee and its working groups) should not interrupt the work of the Subcommittee or its working groups;

(d) The general rule for annexing documents to the report of the Subcommittee should be that normally any document would be annexed, if at all, only once, to the report of the session in which it was first submitted, but not to later reports;

(e) The Subcommittee should not have plenary meetings in the afternoons when the agenda items on definition of outer space/geostationary orbit and on outer space benefits were considered. Instead, the working groups on those items should meet;

(f) Delegations wishing to speak at the Subcommittee's next plenary meeting should inform the Chairman of their intention before the adjournment of the previous plenary meeting. If no such information was received by the Chairman, the next plenary meeting of the Subcommittee should be cancelled and a working group should meet instead;

(g) The Subcommittee and its working groups should seek to schedule in advance informal consultations at which conference services would not be used. For that purpose, the Subcommittee and its working groups should decide as early as possible whether it would be feasible to cancel in advance some of their formal meetings in order to have informal consultations among interested delegations. That measure, if adopted, should not preclude resorting to unscheduled informal consultations following a decision of the Subcommittee or a working group, if such consultations were deemed necessary for attaining progress in deliberations;

(h) The Subcommittee should seek to reduce, by one a week, the number of morning plenary meetings and to allocate the time saved to the meetings of relevant working groups. For that purpose, the Chairman should set a deadline for closing lists of speakers for the general exchange of views and for each of the substantive agenda items;

(i) The Subcommittee and its working groups should begin their morning meetings at 10 a.m. with the understanding that that did not relate to and did not affect the question of the length of the session;

(j) When adopting and following the schedule of work, the Subcommittee should exercise flexibility in the allocation of time for consideration of items on its agenda. If the time previously allocated for the consideration of an item was not fully used or was unlikely to be used, the Subcommittee should seek, on the basis of consensus, to use the time for the consideration of other items on the agenda or, as the case might be, to consider the possibility of concluding the session ahead of the scheduled date. The adoption

of that measure was without prejudice to the position of various delegations concerning the duration of the Subcommittee's sessions.

13. As for specific steps to implement the measure contained in paragraph 12 (g), above, the Chairman, at the opening meeting, proposed not to schedule, this year, informal consultations in advance, and the Subcommittee agreed.

14. The Subcommittee agreed also that a similar flexible organization of work as agreed upon at the current session would serve as the basis for organizing the work of the Subcommittee's thirty-fifth session, subject to additional measures set out in paragraphs 46-56, below.

15. At its 584th meeting on 31 March, the Chairman proposed, and the Subcommittee agreed, to conclude the session ahead of time in accordance with the measure contained in paragraph 12 (j), above. Specifically, the Subcommittee decided to conclude the work of the Subcommittee on 7 April. The Subcommittee agreed that that reduction was without prejudice to the length of future sessions of the Subcommittee.

16. The Subcommittee agreed that, in view of its recommendation to suspend, for another year, the work of its Working Group on agenda item 3, as contained in paragraph 27, below, an additional measure concerning organization of work could be adopted for the Subcommittee's next session as follows:

(a) At the 1996 session, less time should be allocated for consideration of item 3 than for agenda items 4 and 5;

(b) The recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee, on a permanent basis, should rotate each year the order of consideration of substantive agenda items (A/45/20, para. 143) should be suspended for the 1996 session, and that the substantive agenda items should be considered at that session in the same order as in 1995 (items 4, 5 and 3).

The adoption of the above measure is without prejudice to the positions of various delegations concerning the duration of the Subcommittee's sessions.

17. In the course of a general exchange of views, the view was expressed that the Committee on the Peaceful Uses of Outer Space, as well as its subcommittees, could play a supportive role for other international forums dealing with the problem of preventing an arms race in outer space and that, for that purpose, machinery should be established for cooperation between that Committee and the Ad Hoc Committee on Prevention of the Arms Race in Outer Space of the Conference on Disarmament. Another view expressed was that consideration of that topic was not within the competence of the Committee on the Peaceful Uses of Outer Space and that establishment of any such machinery was therefore inappropriate.

18. In the course of the general exchange of views, reference was made to the issue of the duration of the Legal Subcommittee's sessions. Some delegations expressed support for the view that there should be a considerable reduction and rationalization of the Subcommittee's work schedule, following the example adopted by other United Nations bodies. Other delegations noted that the consideration of any possible reduction of the work of the Legal Subcommittee should not detract from the consideration of substantive new items which could be placed on the agenda of the Legal Subcommittee.

19. In the course of a general exchange of views, some delegations expressed the view that an international agreement on the problem of space debris might be necessary in the future. Some delegations noted with satisfaction that the Scientific and Technical Subcommittee had continued its consideration of space debris as a priority agenda item at its session in 1995, and had formulated a multi-year work plan in order to advance in its consideration of that agenda item. Some delegations also expressed the view that it was

advisable for the Legal Subcommittee to begin consideration of legal issues relating to space debris. Other delegations expressed the view that the Scientific and Technical Subcommittee needed to be given sufficient time and opportunity to adequately assess the problem of space debris before the issue could be considered by the Legal Subcommittee.

20. The Subcommittee noted with satisfaction that a symposium entitled "Technical and policy issues related to the use of the space environment", organized by the International Institute of Space Law (IISL), based in Paris, and the Institute of Air and Space Law (IASL), based in Montreal, was held before the opening of the Legal Subcommittee on 27 March 1995.

21. The Subcommittee noted the view that, on the occasion of its next session in 1996, a seminar might be organized, with the participation of relevant organizations, on the subject of protection of the space environment.

22. The Subcommittee held a total of 9 meetings. The views expressed at those meetings are summarized in documents A/AC.105/C.2/SR.580-588.

23. At its 588th meeting, on 7 April, the Subcommittee adopted the current report and concluded the work of its thirty-fourth session.

I. QUESTION OF EARLY REVIEW AND POSSIBLE REVISION OF THE PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE (AGENDA ITEM 3)

24. The Subcommittee noted that the subject of the use of nuclear power sources in outer space had been under consideration in the Scientific and Technical Subcommittee at its thirty-second session in 1995, and that the relevant parts of the report of that Subcommittee were contained in document A/AC.105/605, paragraphs 63-74. In particular, the Subcommittee noted that the Scientific and Technical Subcommittee had agreed that, at the present time, revision of the Principles was not warranted (A/AC.105/605, para. 65).

25. As mentioned in paragraph 8 above, the Subcommittee, at its 580th meeting, decided not to re-establish its working group on agenda item 3.

26. The Subcommittee agreed that, at the present time, revision of the Principles was not warranted and therefore that it should not open discussion of that item during the current session of the Subcommittee.

27. The Subcommittee further agreed that, at its thirty-fifth session, consideration by the Working Group on agenda item 3, of the Principles Relevant to the Use of Nuclear Power Sources, should again be suspended for one year, pending the results of the work in the Scientific and Technical Subcommittee, without prejudice to the possibility of reconvening its Working Group on that item if, in the opinion of the Legal Subcommittee, sufficient progress was made in the Scientific and Technical Subcommittee at its session in 1996 to warrant the reconvening of the Working Group.

28. The Subcommittee agreed that the word "early" should be deleted from the formulation of this item.

29. The Subcommittee agreed that this item should be retained on the agenda of the Legal Subcommittee to give delegations an opportunity to discuss it in plenary meetings.

II. MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (AGENDA ITEM 4)

30. The Chairman made an introductory statement on agenda item 4 at the 580th meeting on 27 March 1995. He referred to the work of the Subcommittee at its thirty-third session in 1994.

31. The Chairman drew attention to the fact that the General Assembly, in its resolution 49/34, had decided that the Subcommittee, taking into account the concerns of all countries, particularly those of developing countries, should continue, through its working group, its consideration of matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.

32. The Subcommittee noted that the subject of the geostationary orbit had been under consideration in the Scientific and Technical Subcommittee at its thirty-second session, in 1995, and that the relevant part of the report of that Subcommittee was contained in document A/AC.105/605, paragraphs 102-108.

33. The Subcommittee had before it working papers submitted at its previous sessions under that agenda item. The Subcommittee also had before it a working paper entitled "Geostationary satellite orbit" (A/AC.105/C.2/L.192) submitted at its thirty-second session in 1993 by the delegation of Colombia and set out in section A of annex III to the present report. The Subcommittee noted with satisfaction the intention of the delegation of Colombia to submit a revised version of the working paper, as well as an annex giving an explanation of the ideas raised in the working paper, at the next session of the Legal Subcommittee in 1996.

34. The views expressed by delegations during the debate on agenda item 4 are contained in summary records A/AC.105/C.2/SR.580-584.

35. As mentioned in paragraph 8 above, the Subcommittee, at its 580th meeting, re-established its Working Group on agenda item 4 under the chairmanship of Mr. E. Curia, the representative of Argentina.

36. At the 588th meeting, on 7 April, the Chairman of the Working Group reported to the Subcommittee. The Subcommittee took note with appreciation of the report, which is set out in annex I to the present report.

37. The Subcommittee recalled that the item relating to the definition and delimitation of outer space had been on the agenda of the Legal Subcommittee since 1967. At the thirty-first session of the Subcommittee in 1992, the delegation of the Russian Federation submitted a working paper (A/AC.105/C.2/L.189) on the questions concerning the legal regime for aerospace objects. At the thirty-second session of the Legal Subcommittee in 1993, the Chairman of the Working Group on agenda item 4 circulated an informal paper entitled "Draft questionnaire concerning aerospace objects" (A/AC.105/C.2/1993/CRP.1). At the thirty-third session of the Legal Subcommittee in 1994, the Chairman of that Working Group circulated an informal paper containing an introduction to the draft questionnaire (A/AC.105/573, annex II, para. 14).

38. At the current session of the Legal Subcommittee, the Working Group finalized the text of the questionnaire on possible legal issues with regard to aerospace objects set out in the appendix to annex I of the present report. The Subcommittee agreed that the purpose of the questionnaire was to seek the preliminary views of States members of the Committee on the Peaceful Uses of Outer Space on various issues

relating to aerospace objects. It was hoped that the replies to the questionnaire would provide a basis for the Legal Subcommittee to decide how it might continue its consideration of agenda item 4. Therefore, the Legal Subcommittee agreed that Committee member States should be invited to give their opinions on those matters.

39. The Subcommittee agreed that, at its next session in 1996, the Secretariat should submit a document containing answers to the questionnaire that might have been received from member States of the Committee on the Peaceful Uses of Outer Space.

III. CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (AGENDA ITEM 5)

40. The Chairman made an introductory statement on agenda item 5 at the 583rd meeting on 30 March 1995. He referred to the work of the Subcommittee at its thirty-third session in 1994.

41. The Chairman drew attention to the fact that the General Assembly, in its resolution 49/34, had decided that the Subcommittee, taking into account the concerns of all countries, particularly those of developing countries, should continue, through its working group, its consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries.

42. The Subcommittee had before it a working paper entitled "Principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes" (A/AC.105/C.2/L.182/Rev.2) submitted at its current session by the delegations of Brazil, Chile, Colombia, Egypt, Iraq, Mexico, Nigeria, Pakistan, Philippines, Uruguay and Venezuela. The Subcommittee also had before it a working paper entitled "Declaration on international cooperation in the exploration and use of outer space for the benefit and in the interests of all States, taking into particular account the needs of developing countries" submitted at its current session by the delegations of France and Germany (A/AC.105/C.2/L.197). These working papers are set out in sections B and C of annex III to the present report.

43. The views expressed by delegations during the debate on agenda item 5 are contained in summary records A/AC.105/C.2/SR.584-587.

44. As mentioned in paragraph 8 above, the Subcommittee, at its 580th meeting, re-established its Working Group on agenda item 5 under the chairmanship of Mr. R. González, the representative of Chile.

45. At the 588th meeting, on 7 April, the Chairman of the Working Group on agenda item 5 reported to the Subcommittee. The Subcommittee took note with appreciation of the report, which is set out in annex II to the present report.

IV. WORKING METHODS AND AGENDA OF THE LEGAL SUBCOMMITTEE

46. In accordance with the recommendation of the Committee on the Peaceful Uses of Outer Space, contained in paragraph 160 of the report on its thirty-seventh session in 1994 (A/49/20), subsequently endorsed by the General Assembly in its resolution 49/34, paragraph 8, the Chairman of the Subcommittee conducted informal, open-ended consultations with all members of the Subcommittee on the working methods

and agenda of the Legal Subcommittee, including the consideration of possible additional items for inclusion in the agenda of the Subcommittee. During those consultations, all proposals contained in the annex to the Committee's report on its 1994 session, as well as a number of other proposals, were discussed.

47. During the course of those discussions some delegations proposed certain items should be considered for possible inclusion in the agenda of the Subcommittee at its future sessions as follows:

(a) Status of the five outer space treaties;

(b) Commercial aspects of space activities (e.g. property rights, insurance and liability);

(c) Review of existing norms of international law applicable to space debris;

(d) Legal aspects of space debris;

(e) Comparative review of the principles of international space law and international environmental law.

Other delegations felt that the Legal Subcommittee should only incorporate in its agenda those subjects on which there were reasonable prospects for reaching consensus. In the view of some delegations no new item was ripe for consideration by the Committee at that time, for example, space debris, which they felt should wait until the Scientific and Technical Subcommittee's work on that subject was further advanced.

Duration of session

48. Bearing in mind paragraph 54, below, the Subcommittee agreed that it would conduct its sessions with the utmost flexibility, and in doing so, every effort would be made to conclude its sessions as early as practicable, with the goal being to conclude its sessions in two weeks, keeping in mind the need to consider new items for the agenda of the Subcommittee.

Working methods

49. The Subcommittee agreed to continue to improve the application of the measures described in paragraph 12 of the present report, as was done at the current and a number of previous sessions of the Subcommittee, which measures have contributed to the effective utilization of conference services by the Subcommittee. In regard to the measure contained in paragraph 12 (g) above, however, the Subcommittee agreed that the practice of cancelling, in advance, afternoon meetings in order to conduct informal consultations should be ended, as had been the case at its present session, and that the time should be used for meetings of the working groups or the Subcommittee, with the understanding that working group meetings could be cancelled on an ad hoc basis if informal consultations were required.

50. The Subcommittee agreed that the methods of work outlined in paragraph 12 of the present report, as well as those measures outlined below, should be followed with the utmost flexibility.

51. The Subcommittee agreed that there should be the possibility of holding informal meetings and consultations outside the work schedule of the Subcommittee and that all informal meetings and consultations of the Subcommittee and its Working Groups held during the work schedule of the Subcommittee should be provided with interpretation services.

General exchange of views

52. The Subcommittee recommended that the existing established practice of allocating some time in the first part of the session for a general exchange of views should continue. At the same time, the Subcommittee recommended that delegations taking part in such a general exchange should limit their statements to views on general legal and policy issues concerning the current and future work of the Subcommittee.

Other matters

53. The Subcommittee recommended that an item entitled "Other matters" should be included in the agenda of its future sessions, and that no more than one three-hour meeting of the Subcommittee should be allocated for the consideration of that item at each session, unless a consensus decision was made by the Subcommittee to allocate more time for that purpose at a particular session.

New items for the agenda

54. Bearing in mind paragraphs 47 and 48, above, the Subcommittee concluded that, at its next session in 1996, the Chairman should conduct open-ended informal consultations, with all members of the Subcommittee, with a view to identifying, on the basis of consensus, a subject or a list of subjects that may be considered, in the future, for inclusion in the agenda of the Subcommittee.

55. It was understood that delegations that propose new agenda items for consideration should provide a brief written analysis of the legal issues involved with that proposal in areas of international law, including space law, that might already apply to the proposed subject, as well as the intended focus of the consideration of that item in the Subcommittee and a possible time-frame for its consideration.

Other proposals

56. The Subcommittee agreed that matters related to the membership of the Subcommittee and its Chairmanship are not within the Subcommittee's competence and therefore should be dealt with by the Working Group of the Committee on the Peaceful Uses of Outer Space on the working methods of the Committee and its subsidiary bodies that will be convened at the thirty-eighth session of the Committee in 1995.

Annex I

REPORT OF THE CHAIRMAN OF THE WORKING GROUP ON AGENDA ITEM 4 (MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION)

1. On 27 March 1995, the Legal Subcommittee re-established its Working Group on agenda item 4.

2. The Working Group had before it the report of the Legal Subcommittee on the work of its thirty-third session in 1994 (A/AC.105/573), which contained, in its annex II, the report of the Chairman of the Working Group at that session. The Working Group also had before it the report of the Scientific and Technical Subcommittee on the work of its thirty-second session in 1995 (A/AC.105/605), which considered, in chapter VII, *inter alia*, the subject of the physical nature and technical attributes of the geostationary orbit.

3. The following documents submitted at previous sessions of the Legal Subcommittee were referred to in the course of the discussion: "Questions concerning the legal regime for aerospace objects", submitted to the Subcommittee at its thirty-first session by the delegation of the Russian Federation (A/AC.105/C.2/L.189); "Geostationary satellite orbit", submitted to the Subcommittee at its thirty-second session by the delegation of Colombia (A/AC.105/C.2/L.192); an informal paper entitled "Draft questionnaire concerning aerospace objects", circulated at the Subcommittee's thirty-second session by the Chairman of the Working Group on agenda item 4 (A/AC.105/C.2/1993/CRP.1); and an informal paper containing an introduction to the draft questionnaire circulated at the Subcommittee's thirty-third session by the Chairman of the Working Group on agenda item 4 (A/AC.105/573, annex II, para. 14).

4. On the question of the organization of its work, pursuant to a recommendation by the Chairman, the Working Group agreed that each aspect of the agenda item, namely, the definition and delimitation of outer space, on the one hand, and the geostationary orbit, on the other, should be discussed by the Working Group separately.

5. The views expressed in the discussions of the Working Group are summarized below.

The definition and delimitation of outer space

6. At the commencement of the debate, the Chairman of the Working Group referred to the working paper submitted by the Russian Federation "Questions concerning the legal regime for aerospace objects" (A/AC.105/C.2/L.189), the informal paper entitled "Draft questionnaire concerning aerospace objects" (A/AC.105/C.2/1993/CRP.1) and the introduction to this paper (A/AC.105/573, annex II, para. 14), which had been submitted at previous sessions of the Working Group. The Chairman suggested that, while delegations were free to address any aspect of the definition and delimitation of outer space, it might be useful if they could offer their comments with regard to the proposed questionnaire and introduction since, in the Chairman's view, such discussions would be conducive to achieving progress in the Group's work. At the second meeting of the Working Group, an integrated document containing the draft questionnaire and the two introductory paragraphs drafted at the thirty-third session was distributed to Member States (A/AC.105/C.2/1995/CRP.3).

7. Some delegations expressed the view that, after finalization, the questionnaire should be sent not only to Member States, but also to the International Civil Aviation Organization (ICAO) and other relevant international organizations. In that connection, the Chairman informed the Working Group that the draft questionnaire had been informally brought to the attention of ICAO. Some delegations expressed the view that ICAO should again be invited to provide the Legal Subcommittee with its expert views which would be particularly relevant to the subject-matter of the questionnaire. The view was also expressed that before further action was taken on the questionnaire, the Working Group should await a response from ICAO.

8. Some delegations expressed the view that the eventual objective of the questionnaire was not clear and that refinement of that informal document was needed, through discussions in the Working Group, before it could be finalized for circulation to Member States. Some delegations also expressed the view that it would be necessary to determine, in advance, what could be done with the replies to the questionnaire.

9. The view was expressed that replies to the questionnaire could form the basis of future discussions by the Working Group on this matter.

10. The view was also expressed that replies received could form the basis of a future legal document regulating the exploitation of aerospace objects. That delegation believed that the replies could, *inter alia*, provide an answer to the question of whether existing law would suffice or whether a special new legal regime should be elaborated for aerospace objects.

11. Some delegations expressed the view that the draft questionnaire contained questions of both a technical and legal nature and that an effort should be made to distinguish between those two types of questions since any technical questions might best be answered by a body with scientific and technical competence.

12. Some delegations expressed the view that the answers to several questions currently contained in the questionnaire were already evident in the national practices of certain States and that those questions had also been clearly answered in previous statements in the Legal Subcommittee and other forums. Some delegations also expressed the view that in the more than 30 years of the peaceful exploration of outer space there had never been a practical problem caused by the lack of a boundary between airspace and outer space, and that any attempt to establish such a boundary could cause more problems than it would solve.

13. The view was expressed that due to a lack of progress on this item, either it should be deleted from the agenda or the time allocated for its consideration should be reduced. Other delegations expressed the view that the item should be retained on the agenda because the Legal Subcommittee had a mandate from the General Assembly to discuss the issue.

14. The view was expressed that with respect to new political realities in the post Cold War era, the debate on that question could move away from dogmatic assertions and towards more objective and businesslike discussions, which could lead to a mutual rapprochement of existing polarized positions. In that connection, some delegations also believed that the definition and delimitation issue was not an academic problem relating to the upper limit of national sovereignty over airspace, but a practical issue which, with the advent of new aerospace systems, required legal analysis and possibly new international legal regulation.

15. Some delegations expressed the view that by concentrating on specific fields of space applications and by working towards the development of legal issues with regard to aerospace objects, further progress could be made on that agenda item.

16. Some delegations believed that the focus of the draft questionnaire should be directed at practical matters that would provide information appropriate to the discussions of the Working Group. Some of those delegations expressed the view that the objective of the questionnaire could be to determine relevant State

practice with respect to aerospace objects and to elicit information on existing national legislation on that matter.

17. Some delegations expressed the view that, as an expert body in the field of international space law, the Working Group itself should examine and provide answers to the questions contained in the draft questionnaire and that, therefore, there was no need to circulate it to Member States.

18. The view was expressed that the practice of establishing maritime boundaries was an interesting example of an international law approach to the question of delimitation and that, in principle, it would be possible to consider the application, to some extent, of a similar approach in the definition and delimitation of outer space.

19. On the basis of discussions in the Working Group, the Chairman introduced, at its third meeting, a revised version of the informal paper entitled "Draft questionnaire on a legal regime governing aerospace objects" (A/AC.105/C.2/1995/CRP.3/Rev.1). The Chairman then suggested that the Working Group undertake a question-by-question review of the revised informal working paper.

Title

20. With regard to the title of the informal working paper, it was suggested that the word "regime" should be replaced with the word "issues". The view was also expressed that the word "governing" should be replaced with "with regard to" so that the title would read: "Draft questionnaire on legal issues with regard to aerospace objects".

Question 3

21. It was suggested that the phrase "single or unified" be deleted.

22. The view was expressed that the words "a regime" be replaced with "special procedures" and that the word "all" be deleted. It was also suggested that the word "notwithstanding" should be replaced with "considering".

23. The view was expressed that the phrase "or should a single or unified regime be developed for such objects" be added to the end of the sentence.

Question 4

24. It was suggested that the following words be added to the end of the sentence: "or should either air law or space law prevail during the flight of an aerospace craft, depending on the destination of such a flight?".

25. Some delegations expressed the view that a note be attached to the end of the questionnaire expressing the idea that recipients of the questionnaire were not restricted to providing answers to the questions but were encouraged to provide additional comments and suggestions, if any, related to the questionnaire.

26. Some delegations expressed the view that the general questions in the questionnaire should be placed before the specific questions. Some delegations also expressed the view that some of the questions could be combined.

27. On the basis of those comments, at the fourth meeting of the Working Group, the Chairman introduced a second revised version of the informal working paper entitled "Draft questionnaire on legal issues with regard to aerospace objects" (A/AC.105/C.2/1995/CRP.3/Rev.2).

28. On the basis of informal consultations, the Chairman prepared and circulated a revised version of the working paper entitled "Questionnaire on possible legal issues with regard to aerospace objects" (A/AC.105/C.2/1995/CRP.3/Rev.3), which was approved by the Working Group and is reproduced as an appendix to the present annex.

29. The Working Group agreed that the purpose of the questionnaire was to seek the preliminary views of member States of the Committee on various issues relating to aerospace objects. It was hoped that the replies to the questionnaire would provide a basis for the Legal Subcommittee to decide how it might continue its consideration of agenda item 4. Therefore, the Working Group recommended that the Legal Subcommittee agree that member States of the Committee should be invited to give their opinions on those matters.

30. The Working Group also recommended that the Legal Subcommittee should request the Secretariat to submit, at its next session, in 1996, a document containing answers to the questionnaire that might have been received from member States of the Committee on the Peaceful Uses of Outer Space.

The geostationary orbit

31. At the commencement of the debate, the Chairman of the Working Group recalled that at the 1993 session of the Group, the delegation of Colombia had introduced a working paper entitled "Geostationary satellite orbit" (A/AC.105/C.2/L.192). The working paper had also been discussed by the Working Group in 1994. The Chairman suggested that the Working Group should begin its discussions with general statements on matters related to the geostationary orbit, after which the Group could conduct a paragraph-by-paragraph review of the working paper.

32. Some delegations expressed the view that both the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee had a mandate from the General Assembly to consider questions relating to the use of the geostationary orbit with a view to elaborating legal principles on the question. Some delegations also expressed the view that the work should be complementary to the activities of the International Telecommunication Union (ITU). In that connection, the view was expressed that the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee should strengthen their cooperation with ITU.

33. Other delegations expressed the view that the Legal Subcommittee had no mandate to develop legal principles or a special legal regime for the geostationary orbit. Those delegations believed that ITU had been quite successful in dealing with various aspects of the rational and equitable use of the geostationary orbit and that it was necessary to avoid any possible conflict of activities between ITU and other international bodies. Some of those delegations also expressed the view that because the geostationary orbit was an integral part of outer space, the legal regime established by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (Outer Space Treaty), which was adopted by the General Assembly in resolution 2222 (XXI) of 19 December 1966 and entered into force on 10 October 1967, adequately covered activities in and related to the geostationary orbit.

34. Some delegations expressed the view that, while the geostationary orbit was indeed a part of outer space, it had specific characteristics and features and was a limited natural resource which might become saturated. Therefore, a special legal regime should be elaborated in order to ensure equitable access to that orbit.

35. The view was expressed that there was a need to establish a *sui generis* legal regime for regulating access to and the use of the geostationary orbit which was a limited natural resource. Such a regime should guarantee equitable access to the geostationary orbit for all States, taking particular account of the needs of developing countries, including the equatorial countries due to their special characteristics. That delegation was in agreement with some portions of the working paper submitted by Colombia. Since outer space had not so far been delimited, it could not be affirmed that the geostationary orbit was a part of outer space. That delegation considered that the working paper submitted by Colombia was useful and it enriched the debate in the Working Group on the geostationary orbit. In addition, that delegation noted that the special *sui generis* regime should also refer to the space debris issue.

Paragraph 1

36. With regard to paragraph 1 of the working paper, the view was expressed that the description of the geostationary satellite orbit as a limited natural resource was questionable. In reply, the sponsor of the working paper stated that the concept of the geostationary satellite orbit as a "limited natural resource" had been enshrined in all relevant ITU instruments since 1973, and was contained in article 44 of the current ITU Constitution.

37. In response to a request for further clarification of the matter, the representative of ITU explained that, in the context of article 44 of the 1992 ITU Constitution, the term "limited natural resource" encompassed both the geostationary satellite orbit and the radio frequency spectrum. In that regard, the sponsor of the working paper explained that it was clear that the term "limited natural resource" referred to both the geostationary satellite orbit and the radio frequency spectrum, but as the working paper dealt only with the geostationary satellite orbit, reference to the radio frequency spectrum had not been included in the working paper.

Paragraph 3

38. With regard to paragraph 3, a clarification was requested as to why the words "cooperation and understanding" were paired. In reply, the sponsor of the working paper stated that the paragraph was strictly preambular in nature and that the terms were used merely to reaffirm the 1967 Outer Space Treaty including the Moon and Other Celestial Bodies.

Paragraph 4

39. With regard to paragraph 4, some delegations expressed the view that the phrase "it revolves at the same speed as the Earth" should be replaced with "its angular velocity as measured from the centre of the Earth is identical to that of the Earth itself".

Paragraphs 6 and 7

40. With regard to paragraph 6, the view was expressed that it was unclear to whom the term "guarantee" applied and what entity or entities would be responsible for that guarantee.

41. In reply, the sponsor of the working paper stated that the "guarantee" would be the standards and regulations administered by ITU. It was further explained that the goal of the working paper was to find a legal solution to guarantee in practice equitable access to the geostationary orbit through the establishment of certain preferential rights for developing countries and countries that currently did not have access to the orbit.

42. The view was expressed that paragraphs 6 and 7 could be merged into one paragraph which would read as follows: "Reaffirming the need to guarantee to all States in practice equitable access to the geostationary satellite orbit, in accordance with article 33 of the Nairobi International Telecommunication Union Convention and other relevant ITU treaties and to ensure that that resource is used, in accordance with the treaties, in a rational, effective and economical manner".

Paragraph 8

43. With regard to paragraph 8, the view was expressed that, as stated, it was unclear to whom the term "specific preferential rights" applied. The view was also expressed that the phrase "specific preferential rights" should not be used in that context and that a more acceptable formulation should be selected.

44. In reply, the sponsor of the working paper explained that the phrase "specific preferential rights" applied to developing countries and countries that currently did not have access to the orbit.

Paragraph 9

45. With regard to paragraph 9, some delegations expressed the view that the term "developing countries" needed to be legally defined and the criteria used to distinguish those countries clarified. In that connection, the Working Group suggested that the Secretariat should provide an authoritative answer to that question.

46. In response, the Secretariat stated that neither the General Assembly nor the Economic and Social Council had established any formal definition or list of developing countries and, as a consequence, there was no officially recognized definition of the term "developing countries" in United Nations practice. There was, however, a number of classifications and lists used by the United Nations for different purposes which could serve as a useful guide in determining whether a particular country could be considered a "developing country". Those included the list of countries for which the United Nations Development Programme (UNDP) had established indicative planning figures (IPF); the lists of developing countries established by the United Nations Statistical Office to be found in the Statistical Yearbook, 1994; the lists of countries established which served as a basis for election to the Trade and Development Board of the United Nations Conference on Trade and Development (UNCTAD), for which a set of criteria had been worked out; the tables appearing in the annual reports of the Committee on Contributions of the General Assembly of the United Nations; a list of the countries belonging to the Group of 77 and the list provided in the UNDP Human Development Report.

47. The view was expressed that it was very doubtful that the term "equitable", as utilized in the ITU Convention, could be construed to mean that there was a need for the establishment of "preferential rights", as suggested in the working paper. The view was also expressed that with regard to the issue of equitable access to the geostationary orbit, it had become more of a commercial phenomenon in that the geostationary satellite orbit was no longer used solely by States, but often States purchased required space services from commercial entities. The sponsor of the document noted that, with respect to this, although the fact was correct, it was up to States to notify, report, coordinate and negotiate for registering an orbital position.

48. The view was expressed that the Outer Space Treaty was a general international legal instrument that did not apply to the special situation inherent in the unique nature of the geostationary orbit. That delegation believed that the objective of the working paper was to go beyond the Outer Space Treaty in order to establish a special legal regime to take into account the particular characteristics of the geostationary orbit. The view was also expressed that the working paper was trying to fill in the legal gaps with regard to the geostationary orbit that existed in the ITU legal regime, without prejudice to the role of ITU.

49. Some delegations expressed the view that, in considering various questions concerning the use of the geostationary orbit, the question of the removal of the space debris from the orbit should be addressed. In that connection, a number of delegations drew attention to the threat posed by space debris in the geostationary orbit.

50. The sponsor of the working paper, summarizing the progress that had been achieved in the context of the Working Group's discussion on A/AC.105/C.2/L.192 as well as during the ongoing debate in the Subcommittee, stated that several constructive and substantive suggestions had been presented by various delegations and that the suggestions made would be taken into account with a view to submitting a revised version of the working paper, including an annex giving an explanation of the ideas raised in the working paper, at the next session of the Working Group. In that connection, that delegation further expressed the view that, in preparing the revision, it would work in cooperation with the Secretariat and ITU.

51. Some delegations expressed the view that the Legal Subcommittee should recommend to the Committee on the Peaceful Uses of Outer Space that a series of questions should be submitted to ITU as soon as possible. Other delegations expressed the view that that would be premature and that the revised version of the working paper should be examined first.

52. The Working Group agreed that an ITU representative should continue to attend future sessions of the Legal Subcommittee with a view to providing continuing input on the question of the geostationary orbit into the discussions of the Subcommittee and the Working Group.

53. Having referred to the intention of the delegation of Colombia to submit a revised version of its working paper (A/AC.105/C.2/L.192) at the next session of the Subcommittee, the view was expressed by one delegation that as far as the structure of that revision was concerned, in addition to the preamble, the paper could consist of three sections devoted to general elements, specific measures and the issue of space debris. The first section could contain broad, general principles, for example, that the geostationary orbit, being a part of outer space and a limited natural resource, should be used exclusively for peaceful purposes. That delegation believed that the establishment of the above principle was within the competence of COPUOS and went beyond the mandate of ITU. It also expressed the view that some of the preambular paragraphs should be moved to the proposed first section, for example that the geostationary orbit should be used in a rational and equitable manner to ensure equitable access for all countries, taking into particular account the special needs of developing countries. As far as the preamble was concerned, that delegation suggested the following: that the first preambular paragraph should be redrafted as follows: "Recognizing that the geostationary satellite orbit is a limited natural resource and must be used for the benefit of all mankind, taking into particular account the special needs of the developing countries, in accordance with the relevant international telecommunication treaties"; that in the third line of the fourth preambular paragraph, the words "and in the same direction" should be inserted between "speed" and "as the Earth"; that, in the seventh paragraph, the words "that the resource is used, in accordance with the treaties, in a rational, effective, economical and equitable manner" should be replaced with "equitable access to the orbit"; and that the eighth paragraph should be deleted. In the view of that delegation, and endorsed by other delegations, the third proposed section of the paper should contain the following text:

> "Best efforts should be made by a launching State* to remove space debris and spent satellites from the geostationary orbit to disposal orbits shortly before the end of their useful lives".

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*Definition of the term "launching State" should be determined at a later stage. (For example, a launching State could be defined as a State that launches, manufactures or operates a satellite.)

That delegation emphasized that the above proposals were made in order to assist the delegation of Colombia in revising its working paper, and that the proposed formulations were tentative and could be changed.

54. In summing up the discussion on the question of the geostationary orbit, the Chairman expressed the view that the exchange of views which had taken place on the basis of working paper A/AC.105/C.2/L.192 had been useful and productive and provided a good basis for the future work of the Working Group. In that connection, the Chairman welcomed the intention of the delegation of Colombia to submit a revised version of its working paper, as well as an annex giving an explanation of the ideas raised in the working paper, to the next session of the Legal Subcommittee in 1996.

55. The Working Group held its final meeting on 4 April 1995, when it considered and approved the present report.

Appendix

INFORMAL WORKING PAPER SUBMITTED BY THE CHAIRMAN OF THE WORKING GROUP
(A/AC.105/C.2/1995/CRP.3/Rev.3 of 31 March 1995)

Questionnaire on possible legal issues with regard to aerospace objects

Question 1: Can an aerospace object be defined as an object which is capable both of travelling through outer space and of using its aerodynamic properties to remain in airspace for a certain period of time?

Question 2: Does the regime applicable to the flight of aerospace objects differ according to whether it is located in airspace or outer space?

Question 3: Are there special procedures for aerospace objects, considering the diversity of their functional characteristics, the aerodynamic properties and space technologies used, and their design features, or should a single or unified regime be developed for such objects?

Question 4: Are aerospace objects while in airspace considered as aircraft, and while in outer space as spacecraft, with all the legal consequences that follow therefrom, or does either air law or space law prevail during the flight of an aerospace craft, depending on the destination of such a flight?

Question 5: Are the take-off and landing phases specially distinguished in the regime for an aerospace object as involving a different degree of regulation from entry into airspace from outer space orbit and subsequent return to that orbit?

Question 6: Are the norms of national and international air law applicable to an aerospace object of one State while it is in the airspace of another State?

Question 7: Are there precedents with respect to the passage of aerospace objects after re-entry into the Earth's atmosphere and does international customary law exist with respect to such passage?

Question 8: Are there any national and/or international legal norms with respect to the passage of space objects after re-entry into the Earth's atmosphere?

Question 9: Are the rules concerning the registration of objects launched into outer space applicable to aerospace objects?

Annex II

REPORT OF THE CHAIRMAN OF THE WORKING GROUP ON AGENDA ITEM 5 (CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES)

1. On 27 March 1995, the Legal Subcommittee re-established its Working Group on agenda item 5.

2. The Working Group had before it the report of the Legal Subcommittee on the work of its thirty-third session in 1994 (A/AC.105/573), which contained, in its annex III, the report of the Chairman of the Working Group on agenda item 5 at that session. It also had before it a working paper entitled "Principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes" (A/AC.105/C.2/L.182/Rev.2) submitted at its current session by the delegations of Brazil, Chile, Colombia, Egypt, Iraq, Mexico, Nigeria, Pakistan, Philippines, Uruguay and Venezuela, and a working paper entitled "Declaration on international cooperation in the exploration and use of outer space for the benefit and in the interests of all States, taking into particular account the needs of developing countries" (A/AC.105/C.2/L.197) submitted at its current session by the delegations of France and Germany. These working papers are contained in sections B and C of annex III to the report of the Subcommittee.

3. In his introductory statement the Chairman referred to the work of the Working Group during its last session in 1994, outlining the extensive and productive exchange of views that had occurred. The Chairman expressed the view that working paper A/AC.105/C.2/L.182/Rev.1 provided the basis for further progress on the item. In that connection, he hoped that with the introduction of the revised version of that paper (A/AC.105/C.2/L.182/Rev.2), and the working paper submitted by the delegations of France and Germany (A/AC.105/C.2/L.197), further progress could be achieved at the current session.

4. A statement was made by the delegation of Brazil on behalf of the co-sponsors of working paper A/AC.105/C.2/L.182/Rev.2. The Working Group was informed of amendments and modifications that had been made to working paper A/AC.105/C.2/L.182/Rev.1 in the light of comments expressed during the Working Group's previous sessions. The Working Group was further informed of the history and general goals of the document, and premises underlying the concepts contained in the working paper.

5. A statement was made by the delegation of Germany on behalf of the co-sponsors of working paper A/AC.105/C.2/L.197. The Working Group was informed of the general goals of the document and of the premises underlying the concepts contained in the working paper.

6. Some delegations welcomed, and expressed their satisfaction with, the two working papers and indicated their support of the proposals contained therein, and they looked forward to constructive discussions that could contribute to further progress in the Working Group.

7. Some delegations expressed the view that the co-sponsors of the two working papers should attempt to combine them into one. In that regard, some delegations expressed the view that the co-sponsors should first identify the similarities and differences in their respective texts, eliminate controversial paragraphs and elaborate on common paragraphs, with a view to arriving at a combined text. Other delegations expressed the view that philosophical differences existed between the two texts and that it might be very difficult to integrate them.

8. The view was expressed that although the two working papers suggested two different approaches to the agenda item, it was important to continue discussions on issues raised in the Working Group because the positions of Member States had the tendency to evolve over time. That delegation recalled that initially there was strong opposition to the idea of elaborating draft principles relevant to the use of nuclear power sources in outer space and to remote sensing of the Earth from outer space, but eventually those principles had been successfully elaborated and adopted by consensus.

9. On the question of the organization of its work, pursuant to a recommendation by the Chairman, the Working Group agreed that first Brazil, and then Germany, on behalf of the co-sponsors of the respective working papers, would present them on a paragraph-by-paragraph basis, allowing delegations the opportunity to offer their comments and suggestions.

Working paper on principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes (A/AC.105/C.2/L.182/Rev.2)

10. Upon a suggestion by the Chairman, the delegation of Brazil, on behalf of the co-sponsors, proceeded with a brief introduction of each preambular paragraph and each paragraph of the text set forth in the annex to the working paper (A/AC.105/C.2/L.182/Rev.2), in order to explain the rationale for those paragraphs, to provide some background on how they had been formulated, to highlight the changes made to the previous draft, and to elicit comments from other delegations. That introduction, as well as the comments of other delegations, is set out in paragraphs 13-51 below.

11. It was questioned whether there was a need at that stage to elaborate principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes, as proposed in working paper A/AC.105/C.2/L.182/Rev.2 in view of extensive international cooperative activities currently taking place.

12. The view was expressed that the working paper would be better balanced if it stressed the concept of partnerships rather than the differences in the level of development of different countries.

Preambular paragraphs

13. With regard to the fifth preambular paragraph, the view was expressed that the phrase "and further developing" and the words "taking into particular account the special needs of the developing countries" should be deleted since they were not contained in article I of the Outer Space Treaty. The view was also expressed that those words needed clarification in view of the fact that the word "special" was not part of the title of the agenda item established by the General Assembly. In reply, the view was expressed that developing countries clearly had special needs related to the development of space science and technology that merited inclusion of the word "special" in the paragraph. The Working Group was informed that the fifth preambular paragraph had been altered to include text from the first paragraph of article 1 of the Outer Space Treaty, as suggested by a delegation at a previous session of the Subcommittee.

14. The Working Group was informed that the eighth preambular paragraph had been amended based on comments made at previous sessions of the Working Group, by replacing the words "further facilitate" with "continue to enhance".

15. The view was expressed that the ninth preambular paragraph could be deleted since it did not correspond to the principles of the Outer Space Treaty.

16. The Working Group was informed that in the eleventh preambular paragraph the word "rational", which had a more practical and technical connotation, was included as a balance to the word "equitable", which had moral and legal connotations. The view was expressed that that paragraph could be deleted because its ideas were covered elsewhere in the working paper. In reply, some delegations expressed the view that it would be preferable to retain that paragraph as it was the only preambular paragraph that made general reference to environmental matters that were more fully addressed in Principle V in the annex.

17. With regard to the preambular paragraphs, the view was expressed that the section was too long and that some of the ideas could be merged.

Text set forth in the annex

Principle I

18. With regard to paragraph 1 and other similar provisions in the draft text, some delegations expressed the view that the word "special" in connection with the needs of developing countries lacked clarity. In reply, the Working Group was informed that the word "special" was not included in the first draft of the Working Paper. However, at a later stage, the word was included in the text because some of the cosponsors believed that it would be appropriate to qualify the needs of developing countries in that way. Still, this qualification could be considered in future revisions of the text. The view was also expressed that if the purpose of such a modification was to reflect the language of General Assembly resolution 49/34, then the word "special" should be deleted, but if it was determined that the needs of developing countries should be stressed, then the word "special" should be retained.

19. With regard to paragraph 2, the view was expressed that the word "all" should be inserted at the beginning of the sentence, and that after the word "States", the words "and particularly those" should be inserted. In reply, the view was expressed that the word "all" had been deleted from other paragraphs, as the adjective "all" had been viewed by some delegations as being far-reaching in nature, but in light of the additional language suggested, it could be reintroduced.

20. The Working Group was informed that paragraph 3 had been modified, in the light of concerns expressed at previous sessions of the Working Group, with a view to stressing the sovereign right of States to determine the content and specific forms of cooperation activities, including its terms and conditions.

21. With regard to paragraph 3, some delegations expressed the view that the last clause of that paragraph was not logically connected to the preceding clause and that it was not clear how the concepts expressed in both the clauses were linked. The view was also expressed questioning the use of the words "multilateral cooperation" when bilateral and other forms of cooperation also existed. In reply, the view was expressed that the second clause of the sentence was of a general nature that included the idea of the sovereignty of a State to freely choose its mode of cooperation. That delegation also expressed the view that to clarify the meaning of the sentence, the words "taking into account" could be replaced by "given", and the order of the clauses reversed. The view was also expressed that the word "multilateral" could be replaced with the word "international".

22. With regard to paragraph 3, the view was expressed that the ideas reflected in the paragraph were comparable with those contained in part II, paragraph 1, of working paper A/AC.105/C.2/L.197 and that the elements in the latter paragraph could be incorporated into paragraph 3. That delegation also expressed the view that the changes made at the end of paragraph 3, which referred to the "domain of outer space", were inconsistent with the first paragraph of article I of the Outer Space Treaty and should be replaced with the words "the exploration and utilization of outer space".

23. The view was expressed that paragraph 3 could be redrafted as follows:

> States are sovereign in deciding the modalities of their participation in cooperation activities, taking into account the importance of international cooperation in the exploration and use of outer space as a province of all mankind.

Principle II

24. The Working Group was informed that the word "all" had been deleted from paragraph 1 to seek a less mandatory formulation as the adjective "all" had been viewed by some delegations, at previous sessions, as too strong or unrealistic for the purposes of that paragraph.

25. With regard to paragraph 1, the view was expressed that, as worded, it implied a certain right of access by States to information and a duty on the part of space powers to disseminate it. That delegation believed that the words "timely basis" were vague and in need of clarification. The view was also expressed that in that paragraph it might be appropriate to add a reference to national and international legislation regulating access to space knowledge and applications.

26. The Working Group was informed that the word "adequately" had been inserted into the last line of paragraph 2 on the basis of a suggestion made at the previous session of the Working Group in 1994.

27. The Working Group was informed that paragraph 3 had been completely re-drafted in the light of the concerns of some delegations expressed at previous sessions of the Working Group that the previous version had implied that a "most favoured nation" regime should govern international cooperation in the peaceful uses of outer space and that that was inappropriate in the context of that highly specialized and complex field.

28. The view was expressed that paragraph 3 as redrafted was unclear and lacked a useful and practical purpose. The view was also expressed that the new version of paragraph 3 was not clear and generalized the principle of systematic assistance to all countries that wished to have it. In reply, the view was expressed that paragraph 3 may have to be redrafted to reflect more clearly the idea that one broad objective of international cooperation would be to narrow existing gaps between States in the field of space science and technology.

29. The Working Group was informed that paragraph 4 had been amended to put to rest concerns, expressed at previous sessions of the Working Group, that prearranged forms of cooperation had been contemplated in the previous version of the paragraph.

30. Some delegations expressed the view that the second sentence of paragraph 4 did not logically follow the first in that the first sentence discussed the concept of mutual benefits, and the second sentence was oriented towards a one-way dissemination of information. The view was also expressed that the word "States" should be replaced by "all partners" because international cooperation in outer space did not only involve States.

31. The view was expressed that paragraph 3 and the first sentence of paragraph 4 were preambular in nature, and paragraphs 1 and 2 and the second sentence of paragraph 4, which were operational in nature, could be streamlined. The view was also expressed that paragraphs 3 and 4 could be streamlined and merged with paragraph 2 since they all dealt with related ideas.

32. Some delegations expressed the view that a new paragraph should be added to Principle II referring to relevant international agreements such as those concerning the protection of intellectual property rights.

Other delegations expressed the view that although the existing text did not adversely affect intellectual property rights, such a reference could be added.

33. With regard to Principle II as a whole, the view was expressed that the ideas set out were incoherent. That delegation believed that those ideas were more clearly reflected in part I, paragraph 3 of working paper A/AC.105/C.2/L.197, which stated that the exploration and use of outer space should be undertaken on an equitable and mutually acceptable basis and that contractual terms in cooperative ventures should be fair and reasonable and in full compliance with the legitimate rights and interests of the parties concerned.

34. Other delegations expressed the view that the ideas contained in Principle II addressed adequately the concept of access to knowledge and applications derived from the exploration and utilization of outer space for peaceful purposes.

Principle III

35. The Working Group was informed that, with respect to paragraph 1, the word "all" had been deleted, and the word "relevant" inserted between the words "of" and "indigenous", in the last line of the paragraph.

36. Some delegations expressed the view that there were other relevant objectives that should be referred to in the paragraph, such as the non-duplication of efforts, the efficient allocation of resources and the coordination of policies. In that regard, the view was expressed that the words ",where appropriate and desired," should be inserted after the word "States".

37. The Working Group was informed that paragraph 2 had been amended by deleting the word "all" and replacing it with the word "other".

38. The view was expressed that the word "to" in paragraph 2 should be replaced with the word "with". The view was also expressed that the words "particularly the developing countries" should read "particularly with developing countries".

39. Some delegations expressed the view that similar ideas had been expressed in Principle II, paragraph 2, Principle III, paragraph 2 and Principle V, paragraph 3. In reply, other delegations expressed the view that the core ideas in the three principles were different, each with its own meaning within the context of each Principle, and thus some repetition was unavoidable.

Principle IV

40. With regard to paragraph 2, some delegations expressed the view that the words "providing or benefiting from" should be replaced with the word "participating" or the words "involved in". The view was also expressed that the current wording of paragraph 2 raised doubts as to how a State providing or benefiting from international cooperation in outer space science and technology and its applications would be able to ensure that the technology and its applications were indeed being used for peaceful purposes.

41. With regard to paragraph 3, the view was expressed that it was not clear what the connection was between the first and second sentences. In reply, the view was expressed that the first sentence stated a general principle and that the second sentence was envisaged as a means by which this general idea could be realized.

Principle V

42. With respect to paragraph 2, the view was expressed that it was unclear what the word "those" referred to.

43. With respect to paragraph 3, some delegations expressed the view that the words "present and" should be inserted before the word "future". The view was also expressed that that idea could be stated in a more general way by referring to the concept of sustainable development.

44. The view was expressed that the reference to the transfer of scientific and technological knowledge in paragraph 3 should be linked with the concept of the protection of intellectual property rights.

45. The view was expressed that since consideration of the outer space environment did not fall within the mandate under the agenda item, all references to it should be deleted from the working paper. In reply, the view was expressed that since the idea behind that principle was to strengthen existing mechanisms of coordination among States regarding issues of common interest to all users of the space environment, including issues of its protection and preservation, it was necessary to include a reference to the space environment in the text.

Principle VI

46. The view was expressed that paragraphs 1 and 2 referred to the role of the United Nations with respect to the present principles and that paragraph 3 was general in nature, and applied to the document as a whole. In that regard, some delegations expressed the view that the recommendation that States should concentrate their efforts in promoting the development of indigenous capability seemed mandatory in nature, and that it would be advisable to insert the words "where appropriate and desired" after the word "capability".

47. Some delegations expressed the view that the six elements listed in paragraph 3 (a)-(f) included issues that went beyond the legal aspects of international cooperation in outer space but rather related to policy or programme issues and that, in that regard, a non-exhaustive list should be drafted to include only those elements that related to the legal aspects of international space cooperation.

48. Some delegations expressed the view that paragraph 3 of Principle I and paragraph 3 of Principle VI were contradictory because paragraph 3 of Principle I stated that States were sovereign in deciding the modalities of their participation in cooperation activities, while paragraph 3 of Principle VI stated that States should concentrate their efforts in the areas listed. Other delegations expressed the view that that contradiction could be resolved by replacing the word "concentrate" with the word "enhance".

49. The Working Group was also informed that the list in Principle VI, paragraph 3 was just an example of possible cooperative activities and that the insertion of the words "*inter alia*" in the paragraph would perhaps make the texts acceptable.

50. The Working Group was informed that with regard to paragraph 3, subparagraph (f), changes had been made in an effort to accentuate the voluntary nature of that recommendation.

51. On behalf of the co-sponsors, the delegate of Brazil, summarizing the Working Group's discussions on working paper A/AC.105/C.2/L.182/Rev.2, as well as ongoing debate in the Subcommittee, stated that several constructive and substantive suggestions had been presented by various delegations, and that in the context of those suggestions, some delegations had expressed specific concerns with regard to the draft set of principles contained in the working paper. However, in his view, there appeared to be no insurmountable differences among delegations that could not be reconciled through constructive debate on the working papers before the Working Group.

Working paper on a declaration on international cooperation in the exploration and use of outer space for the benefit and in the interests of all States, taking into particular account the needs of developing countries (A/AC.105/C.2/L.197)

52. Upon a suggestion by the Chairman, the delegation of Germany, on behalf of the co-sponsors, proceeded with a brief introduction of each paragraph of the text set forth in the working paper A/AC.105/C.2/L.197, in order to explain the rationale for those paragraphs, to provide some background on how they had been formulated and to elicit comments from other delegations. That introduction, as well as the comments of other delegations, is set out in paragraphs 56-79 below.

53. Some delegations welcomed the submission of the working paper by the delegations of France and Germany. They considered that the action constituted significant progress in the work of the Legal Subcommittee on the subject. They also believed that the paper contained important provisions formulated in a constructive manner.

54. Some delegations expressed the view that the working paper did not adequately address the requirement to take into account the needs of developing countries as directed by the General Assembly for consideration of the agenda item.

55. Some delegations expressed the view that the use of the terms "should", "shall", "are" and "can" in the working paper should be examined with a view to making the document uniform. Some delegations expressed the view that since the proposed document would be a General Assembly resolution and, therefore, a non-binding document, the term "should" was preferable. Some delegations expressed the view that the question of the choice of terms in that context should be examined at a later stage when the work on the document was in its final stages and its legal nature became evident.

Title

56. The Working Group was informed that the title of the working paper was closely associated with the mandate under the agenda item as reflected in General Assembly resolution 49/34. The Working Group was further informed that the term "declaration" more appropriately reflected the nature of the document.

57. Some delegations expressed the view that from a practical point of view, it would not make a difference whether the title contained the word "declaration" or the word "principles" because General Assembly resolutions are recommendations and are not binding. The view was also expressed that certain General Assembly resolutions, while being recommendations, are intended to provide important guidelines for States and therefore may be considered as having a certain normative character. In that regard, the view was also expressed that although the term "Declaration" in United Nations usage had a specific connotation, it seemed that the term used in the context of this working paper reflected the descriptive, rather than the regulatory, nature of the document.

Part I

58. With regard to paragraph 1, the Working Group was informed that that provision laid down the foundation on which international cooperation should rest.

59. The view was expressed that reference to other space law resolutions should be made to broaden the scope of reference of the working paper. In reply, the view was expressed that that could be easily done.

60. With regard to paragraph 2, the Working Group was informed that it contained the first core element of the working paper, i.e. that international cooperation should be conducted on the basis of the efficient allocation of resources. The Working Group was also informed that the term "resources" in this paragraph referred primarily to financial resources but could also include technical resources and know-how.

61. The view was expressed that the term "resources" in this paragraph should be clarified.

62. The view was expressed that in the first sentence of paragraph 2, the words "rationally and" should be inserted before the word "efficiently" in order to take due account of the needs of developing countries.

63. The view was expressed that this paragraph could be re-drafted as follows:

> "International cooperation should promote the development of space science, technologies and applications, taking into particular account the needs of developing countries. It should strive to allocate financial resources rationally and efficiently."

64. The view was expressed that the words "international cooperation" could be replaced with the word "States".

65. The view was expressed that the concept of the need to develop indigenous capabilities should be reflected in this paragraph. In reply, the view was expressed that rather than making reference to indigenous capabilities in this context, it would be preferable to incorporate the expression "where appropriate and desired" in the relevant part of the paragraph. In this connection, some delegations expressed the view that the concept of developing indigenous capabilities in the field of outer space should be adequately addressed in the document. In reply, the view was expressed that, while development of indigenous outer space capabilities was an important task for some countries, it was not necessarily a priority goal for other countries.

66. With regard to paragraph 3, the Working Group was informed that it contained the second core element of the working paper, i.e. that States are free to determine all aspects of their cooperation.

67. With regard to paragraph 3, the view was expressed that the formulation of this paragraph should be modified in order to take account of the needs of developing countries. In the view of that delegation, if all aspects of the cooperation with developing countries were based primarily on commercial interests that cooperation would not necessarily be beneficial to those countries. In this connection, that delegation referred to the Remote Sensing Principles of 1986 which, while containing the provision to the effect that access to remote sensing data should be provided on "reasonable cost terms", did not define the latter terms and, as a result, many developing countries currently could not afford to purchase those data.

Part II

68. The Working Group was informed that this part of the document provided a comprehensive overview of various modes of international cooperation in the field of outer space. The Group was also informed that the language of the second part of paragraph 3 originated from the report of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE 82) and that the needs of developing countries were adequately addressed in this part.

69. With regard to paragraph 1, the view was expressed that this provision merely classified various modes of cooperation but did not take into account the needs of developing countries and that, therefore, this

provision should be redrafted with a view to enhancing it for this purpose. In reply, the view was expressed that the interests of developing countries were reflected and dealt with in the document.

70. The view was expressed that the paper provided for international cooperation on both a commercial and a non-commercial basis, and that therefore the latter should be described in more detail.

71. With regard to paragraph 2, the view was expressed that a certain confusion existed in this provision as to means and objectives of international cooperation because the efficient allocation of resources did not constitute an aim of cooperation as suggested in this paragraph. In reply, the view was expressed that in international cooperation, developing countries should be equal partners with developed countries and that the co-sponsors of the working paper were reluctant to introduce the notion of junior and senior partners in this regard.

72. The view was expressed that in paragraph 2, the words "a rational and" should be added before the words "an efficient".

73. With regard to paragraph 3, the view was expressed that this paragraph imposed undue restrictions with regard to choosing modes of cooperation. In the view of that delegation, some modes of cooperation did not necessarily need to be balanced because they should contain more favourable terms for developing countries in order to meet their needs.

74. The view was expressed that in the first sentence of this paragraph, the words "durable and balanced" should be replaced with "durable, balanced and complementary".

Part III

75. The Working Group was informed that this part corresponded roughly to Principle VI of working paper L.182/Rev.2 and that paragraph 1 identified fields which should be considered for cooperation under the basic principles of parts I and II.

76. With regard to paragraph 1, the view was expressed that while there were always problems with including any lists in legal documents, the list in this paragraph should include reference to the need for developing indigenous capabilities of States in various outer space fields.

77. The Working Group was informed that paragraph 2 reflected the practice and experience of international organizations that could be applied by developing countries to reach their development goals in outer space activities. The Working Group was also informed that, in this part, the intention of the co-sponsors was to reflect the notion of "demand-pull" rather than the notion of "technology-push" for purposes of developing international cooperation in the field of outer space.

78. With regard to paragraph 2, the view was expressed that the role of developing countries as participants of international cooperation should be properly reflected.

79. With regard to paragraph 3, some delegations expressed the view that the role of the United Nations Committee on the Peaceful Uses of Outer Space, as a forum for the exchange of information on national and international activities in the field of cooperation for the exploration and use of outer space, should be strengthened. Other delegations expressed the view that the role of the Committee was not limited to the exchange of information and its mandate included other important tasks, such as the development of space law, that could also be reflected in this paragraph.

80. The Chairman of the Working Group expressed the view that the submission of the revised version of working paper A/AC.105/C.2/L.182/Rev.1 and of the working paper A/AC.105/C.2/L.197 constituted an important step forward in the development of the debate in the Working Group. The discussion on item 5 of the agenda, both in the plenary and in the Working Group, in particular the exchange of views between the co-sponsors of the two working papers, had significantly expanded the terms of reference of the debate, which was conducive to achieving progress in the future work of the Working Group. The Chairman informed the Working Group of his intention to attempt to produce, by the end of the session, an informal working paper representing a merger based on the texts of working papers A/AC.105/C.2/L.182/Rev.2 and A/AC.105/C.2/L.197, with additional language from the Chairman, with the hope that that document would facilitate debate in order to progress on the issue at the next session of the Subcommittee. The Chairman further informed the Working Group that submission of that informal working paper was without prejudice to continued consideration of working papers A/AC.105/C.2/L.182/Rev.2 and A/AC.105/C.2/L.197, or any future revisions of those papers.

81. The Chairman's informal working paper (A/AC.105/C.2/1995/CRP.5, as amended) is set out in the appendix to the present annex of the Working Group. There was no discussion, at the current session of the Working Group, of the Chairman's informal working paper.

82. The Working Group held its final meeting on 6 April 1995, when it considered and approved the present report.

Appendix

INFORMAL WORKING PAPER SUBMITTED BY THE CHAIRMAN OF THE WORKING GROUP (A/AC.105/C.2/1995/CRP.5 of 6 April 1995, as amended)*

Declaration of principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes ***for the benefit and in the interests of all States, taking into particular account the needs of developing countries***

The General Assembly,

Bearing in mind the provisions of the Charter of the United Nations, in particular Articles 1, 13, 55 and 56 thereof,

Bearing also in mind the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,

Recalling all relevant General Assembly resolutions, in particular resolutions 2625 (XXV) of 24 October 1970, 3362 (S-VII) of 16 September 1975, 41/65 of 3 December 1986 and 47/68 of 14 December 1992,

Recalling also the recommendations of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space, and of other relevant international conferences on this subject,

Desirous of strengthening and further developing the principle that the exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interest of all countries, irrespective of their degree of economic, ***social*** or scientific ***and technological*** development, and shall be the province of all mankind, and also taking into particular account the needs of the developing countries,[1]

Further recalling that outer space, including the Moon and other celestial bodies, shall be free for exploration and utilization by all States without discrimination of any kind, on a basis of equality and in accordance with international law,

Welcoming that significant international cooperation in the exploration and utilization of outer space for peaceful purposes has already been undertaken and continues to be pursued among States and international organizations,

Stressing the need to continue to enhance and encourage international cooperation in the exploration and utilization of outer space, taking into particular account the needs of the developing countries,

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*This text represents a merger based on the texts of working papers A/AC.105/C.2/L.182/Rev.2 and A/AC.105/C.2/L.197 with additional language from the Chairman. (text originating from A/AC.105/C.2/L.197 is ***bold and italic***)

[1]Quotation marks appearing in this paragraph of L.182/Rev.2 were removed.

Stressing also that the exploration and utilization of outer space shall be maintained for peaceful purposes,

Determined to maintain outer space for peaceful purposes through the promotion of international cooperation in its exploration and utilization,

Conscious of the need to utilize outer space in a rational and equitable manner as well as to preserve it for future generations,

Adopts the ***Declaration of*** principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes ***for the benefit and in the interests of all States, taking into particular account the needs of developing countries,*** set forth in the annex to the present resolution.

Annex

DECLARATION OF PRINCIPLES REGARDING INTERNATIONAL COOPERATION IN THE EXPLORATION AND UTILIZATION OF OUTER SPACE FOR PEACEFUL PURPOSES ***FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES***

I.

1. ***International cooperation in the exploration and use of outer space for peaceful purposes shall be carried out in accordance with international law, including in particular the Charter of the United Nations and the Treaty on the Principles Governing the Activities of States in the Exploration and Peaceful Uses of Outer Space, including the Moon and Other Celestial Bodies.***

2. The exploration and utilization of outer space should be carried out for the benefit and in the interest of all States, taking into particular account the needs of developing countries.

3. States with relevant space capabilities and with programmes for the exploration and utilization of outer space should contribute to promoting and fostering international cooperation in outer space science and technology, and in their applications.

4. States are sovereign in deciding the modalities of their participation in cooperation activities, taking into account the importance of international cooperation in the exploration and use of outer space as the province of all mankind. ***States are free to chose among different modes of cooperation, namely, between governmental or non-governmental cooperation, which can be effected on a global, regional or bilateral level. International cooperation can be carried out between industrialized and developing countries as well as among developing countries, including those with appropriate space capabilities or programmes, and among industrialized countries. All activities can be effected on a commercial as well as on a non-commercial basis.***

5. States shall choose the most effective and appropriate mode of cooperation among these alternatives with the aim of an efficient allocation of resources. International cooperation should strive to allocate resources efficiently. It should promote the development space science, technologies and applications, taking into particular account the needs of developing countries.

6. International cooperation should be based on durable and balanced foundations bearing in mind, inter alia, the consistency between national and international space activities. Thereby States can mutually benefit from international cooperation. This involves the sharing of experiences and learning together, taking into particular account the demand for special training and educational activities. Cooperation should intensify and become more productive as countries, working together over a period of time, discover the benefits of such cooperation and develop mechanisms for reaching their common goal.

II.

1. States should have access to the knowledge and applications derived from the exploration and utilization of outer space for peaceful purposes on an equitable, non-discriminatory and timely basis.

2. States pursuing programmes of exploration and utilization of outer space should facilitate access to the knowledge and applications derived therefrom to other States, particularly developing countries, through programmes of international cooperation adequately designed for that purpose.

3. Cooperation activities should be promoted with a view to assisting all countries interested in developing international programmes in the domain of outer space.

4. In pursuing international cooperation in the exploration and utilization of outer space for peaceful purposes, States should mutually benefit from such cooperation. This is especially relevant in programmes oriented to the dissemination of scientific and technological knowledge, which should take into account the level of development of the countries involved in such cooperation.

5. States are free to determine all aspects of their cooperation in the exploration and use of outer space on an equitable and mutually acceptable basis. By all means, contractual terms in such cooperative ventures shall be fair and reasonable. They shall be in full compliance with the legitimate rights and interests of the parties concerned e.g. with intellectual property rights.

III.

1. The main objective to be pursued by international cooperation in outer space should be the development by States of relevant indigenous capability, where appropriate and desired, in space science and technology and their applications.

2. States with relevant space capabilities and with programmes of exploration and utilization of outer space should promote and facilitate the exchange of expertise and technology with other States, particularly with developing countries.

3. States should promote the exchange of material and equipment for, and the transfer of technology on, the exploration and utilization of outer space within just and equitable parameters of price and payment.

IV.

1. International cooperation in the exploration and utilization of outer space should be for peaceful purposes.

2. States providing or benefiting from international cooperation in outer space science and technology and its applications should ensure that they are used for peaceful purposes.

3. No arbitrary or discriminatory conditions should be applied to exchanges of knowledge and applications destined for the peaceful exploration and utilization of outer space. To this end, negotiated international guidelines so established would facilitate the objective settling of the needs for equipment and technological transfers.

V.

1. All States should pursue their activities in outer space with due regard to the need to preserve the outer space environment, in such a way as not to hinder its continued exploration and utilization.

2. States should pay attention to and coordinate their efforts in all aspects related to the protection and preservation of the outer space environment, especially those potentially affecting the Earth's environment.

3. States with relevant space capabilities and with programmes for the exploration and utilization of outer space should share on an equitable basis with other States, in particular developing countries, the scientific and technological knowledge necessary for the proper development of programmes oriented to the more rational exploration and utilization of outer space, with a view to preserving the outer space environment for present and future generations.

VI.

1. The role of the United Nations and the scope of its activities in international cooperation in the exploration and utilization of outer space should be strengthened and enlarged, particularly through the United Nations Programme on Space Applications ***and the Committee on the Peaceful Uses of Outer Space as a forum for the exchange of information on the national and international activities in this field.***

2. All States should contribute to the Programme on Space Applications in accordance with their space capabilities and their participation in the exploration and utilization of outer space.

3. National and international agencies, research institutions, as well as organizations for development aid in industrialized and developing countries alike should consider the potential of space services i.a. through the exchange of results and data for reaching their development goals.

4. In order to give concrete meaning to this ***Declaration of*** Principles, States should cooperate in the following areas:

(a) Promotion of the development of indigenous capability, where appropriate and desired, in space science and technology, particularly in developing countries;

(b) Continued exchange of information, data, materials and equipment on space science and technology;

(c) Promotion of joint partnerships or ventures in the spheres of space science and technology;

(d) Promotion of easy and low-cost accessibility and availability of remote-sensing data, the ground receiving stations and the digital image processing systems;

(e) Technical cooperation to promote and facilitate the transfer of technology and expertise in space science and technology, particularly with developing countries;

(f) Enhancement of spin-off benefits of space science and technology, taking into particular account the needs of developing countries.

5. In this connection, the following are a few examples of activities which States should consider for international cooperation:

(a) Remote sensing of the Earth from outer space including the observation of the Earth environment, management of natural and agricultural resources, oceanographic and meteorological observation and the prevention on natural disasters;

(b) The use of telecommunication services, including the improvement of the communications infrastructure in the fixed as well as mobile services, navigation and education services;

(c) Microgravity research and life sciences;

(d) Further manned and unmanned space exploration.

Annex III

DOCUMENTS ANNEXED TO THE REPORT

A. Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

Working paper: Colombia (A/AC.105/C.2/L.192 of 30 March 1993)

Geostationary satellite orbit

The General Assembly,

Recognizing that the geostationary satellite orbit is a limited natural resource and, therefore, must be used in a rational and equitable manner and for the benefit for all mankind, taking into account the special needs of the developing countries, in accordance with the relevant international telecommunication treaties (Malaga-Torremolinos, 1973; the World Administrative Radiocommunication Conference, Geneva, 1979; Nairobi, 1982; Nice, 1989),

Recalling that the development of space science and technology applied in the utilization of the geostationary satellite orbit is of fundamental importance for the economic, social and cultural development of the peoples of all States,

Taking into account the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies adopted by the General Assembly in resolution 2222 (XXI) of 13 January 1966 and entered into force on 10 October 1967, which enshrines the peaceful use of outer space for the benefit of all mankind through promoting international cooperation and understanding,

Agreeing with the fact that the geostationary satellite orbit is a geometric locus in outer space where, *inter alia*, an object in orbit behaves differently with respect to the Earth from the way in which it would behave in any other locus in outer space, that is, it revolves at the same speed as the Earth, for which reason, viewed from the Earth, it seems to be fixed,

Agreeing also that the geostationary satellite orbit is part of outer space,

Reaffirming the need to guarantee to all States in practice equitable access to the geostationary satellite orbit, in accordance with article 33 of the Nairobi International Telecommunication Union Convention,

1. *Considers* that there should be a special and complementary legal regime with respect to the geostationary satellite orbit to ensure that that resource is used, in accordance with the treaties, in a rational, effective, economical and equitable manner,

2. *Affirms* that in practice, equity would be achieved through the establishment of a concrete and specific preferential right,

3. *Recommends* the application of the following criteria:

(a) When a developed country and a developing country have equal claims to access to the same orbital position or neighbouring positions, or when a country which has already had access and another country which has not yet had access have equal claims, preference would be given to the developing country or to the country which has not yet had access when the access of those satellites to the same locus makes their operation incompatible radio-electronically or renders their operation difficult or too restrictive. In any case, the preferential right to access physically to the orbital position shall be exercised within the time slots provided for under the radio communication regulations of the International Telecommunication Union;

(b) When there are equal claims by two or more developing countries, or by two or more developed countries, the principle of "first-come, first-served" shall be applied;

(c) There is a need for reserving suitable orbital positions/frequencies to meet the requirements of the developing countries. Such reservations should be kept available for as long as legitimate efforts are made to utilize the position(s) reserved for them;

(d) Notwithstanding the above provision, if a claim was raised for a position in the geostationary satellite orbit by a developing country which has no adequate capability to launch the satellite in the immediate future, while at the same time that claim was raised by another State which has the capability to do so immediately, then the substantiated claim in the latter case shall prevail, in accordance with the principle of effectiveness as enunciated in the International Telecommunication Union Convention.

B. Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries

Working paper: Brazil, Chile, Colombia. Egypt, Iraq, Mexico, Nigeria. Pakistan, Philippines, Uruguay and Venezuela (A/AC.105/C.2/L.182/Rev.2 of 23 March 1995)

Principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes

The General Assembly,

Bearing in mind the provisions of the Charter of the United Nations, in particular Articles 1, 13, 55 and 56 thereof,

Bearing also in mind the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies,

Recalling all relevant General Assembly resolutions, in particular resolutions 2625 (XXV) of 24 October 1970, 3362 (S-VII) of 16 September 1975, 41/65 of 3 December 1986 and 47/68 of 14 December 1992,

Recalling also the recommendations of the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space, and of other relevant international conferences on this subject,

Desirous of strengthening and further developing the principle that "the exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interest of all States, irrespective of their degree of economic or scientific development, and shall be the province of all mankind", and also taking into particular account the special needs of the developing countries,

Further recalling that outer space, including the Moon and other celestial bodies, shall be free for exploration and utilization by all States without discrimination of any kind, on a basis of equality and in accordance with international law,

Welcoming that significant international cooperation in the exploration and utilization of outer space for peaceful purposes has already been undertaken and continues to be pursued among States and international organizations,

Stressing the need to continue to enhance and encourage international cooperation in the exploration and utilization of outer space, taking into particular account the special needs of the developing countries,

Stressing also that the exploration and utilization of outer space shall be maintained for peaceful purposes,

Determined to maintain outer space for peaceful purposes through the promotion of international cooperation in its exploration and utilization,

Conscious of the need to utilize outer space in a rational and equitable manner as well as to preserve it for future generations,

Adopts the principles regarding International Cooperation in the Exploration and Utilization of Outer Space for Peaceful Purposes set forth in the annex to the present resolution.

Annex

PRINCIPLES REGARDING INTERNATIONAL COOPERATION IN THE EXPLORATION AND UTILIZATION OF OUTER SPACE FOR PEACEFUL PURPOSES

I.

1. The exploration and utilization of outer space should be carried out for the benefit and in the interest of all States, taking into particular account the special needs of developing countries.

2. States with relevant space capabilities and with programmes for the exploration and utilization of outer space should contribute to promoting and fostering international cooperation in outer space science and technology, and in their applications.

3. States are sovereign in deciding the modalities of their participation in cooperation activities, taking into account the importance of multilateral cooperation in the domain of Outer Space, as a province of all mankind.

II.

1. States should have access to the knowledge and applications derived from the exploration and utilization of outer space for peaceful purposes on an equitable, non-discriminatory and timely basis.

2. States pursuing programmes of exploration and utilization of outer space should facilitate access to the knowledge and applications derived therefrom to other States, particularly developing countries, through programmes of international cooperation adequately designed for that purpose.

3. Cooperation activities should be promoted with a view to assisting all countries interested in developing international programmes in the domain of outer space.

4. In pursuing international cooperation in the exploration and utilization of outer space for peaceful purposes, States should mutually benefit from such cooperation. This is especially relevant in programmes oriented to the dissemination of scientific and technological knowledge, which should take into account the level of development of the countries involved in such cooperation.

III.

1. The main objective to be pursued by international cooperation in outer space should be the development by States of relevant indigenous capability in space science and technology and their applications.

2. States with relevant space capabilities and with programmes of exploration and utilization of outer space should promote and facilitate the exchange of expertise and technology to other States, particularly the developing countries.

3. States should promote the exchange of material and equipment for, and the transfer of technology on, the exploration and utilization of outer space within just and equitable parameters of price and payment.

IV.

1. International cooperation in the exploration and utilization of outer space should be for peaceful purposes.

2. States providing or benefiting from international cooperation in outer space science and technology and its applications should ensure that they are used for peaceful purposes.

3. No arbitrary or discriminatory conditions should be applied to exchanges of knowledge and applications destined for the peaceful exploration and utilization of outer space. To this end, negotiated international guidelines so established would facilitate the objective settling of the needs for equipment and technological transfers.

V.

1. All States should pursue their activities in outer space with due regard to the need to preserve the outer space environment, in such a way as not to hinder its continued exploration and utilization.

2. States should pay attention to and coordinate their efforts in all aspects related to the protection and preservation of the outer space environment, especially those potentially affecting the Earth's environment.

3. States with relevant space capabilities and with programmes for the exploration and utilization of outer space should share on an equitable basis with other States, in particular developing countries, the scientific and technological knowledge necessary for the proper development of programmes oriented to the more rational exploration and utilization of outer space, with a view to preserving the outer space environment for future generations.

VI.

1. The role of the United Nations and the scope of its activities in international cooperation in the exploration and utilization of outer space should be strengthened and enlarged, particularly through the United Nations Programme on Space Applications.

2. All States should contribute to the Programme on Space Applications in accordance with their space capabilities and their participation in the exploration and utilization of outer space.

3. In order to give concrete meaning to these Principles regarding International Cooperation in the Exploration and Utilization of Outer Space for Peaceful Purposes, States should concentrate their efforts in the following areas:

(a) Promotion of the development of indigenous capability in space science and technology, particularly in developing countries;

(b) Continued exchange of information, data, materials and equipment on space science and technology;

(c) Promotion of joint partnerships or ventures in the spheres of space science and technology;

(d) Promotion of easy and low-cost accessibility and availability of remote-sensing data, the ground receiving stations and the digital image processing systems;

(e) Technical cooperation to promote and facilitate the transfer of technology and expertise in space science and technology, particularly with developing countries;

(f) Enhancement of spin-off benefits of space science and technology, taking into particular account the needs of developing countries.

C. Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries

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Declaration on international cooperation in the exploration and use of outer space for the benefit and in the interests of all States, taking into particular account the needs of developing countries

I. General elements of international cooperation

1. International cooperation in the exploration and use of outer space for peaceful purposes (hereafter "international cooperation") shall be conducted in accordance with the provisions of international law, including the Charter of the United Nations and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. It shall be carried out for the benefit and in the interests of all States, irrespective of their degree of economic, social or scientific and technological development, taking into particular account the needs of developing countries.

2. International cooperation should strive to allocate resources efficiently. It should promote the development of space science, technologies and applications, taking into particular account the needs of developing countries.

3. States are free to determine all aspects of their cooperation in the exploration and use of outer space on an equitable and mutually acceptable basis. By all means, contractual terms in such cooperative ventures shall be fair and reasonable. They shall be in full compliance with the legitimate rights and interests of the parties concerned as, for example, with intellectual property rights.

II. Modes of cooperation

1. States are free to choose among different modes of cooperation, namely, between governmental or non-governmental cooperation, which can be effected on a global, regional or bilateral level. International cooperation can be carried out between industrialized and developing countries as well as among developing countries, including those with appropriate space capabilities or programmes, and among industrialized countries. All these activities can be effected on a commercial as well as on a non-commercial basis.

2. States shall choose the most effective and appropriate mode of cooperation among these alternatives with the aim of an efficient allocation of resources.

3. International cooperation should be based on durable and balanced foundations bearing in mind, *inter alia*, the consistency between national and international space activities. Thereby States can mutually benefit from international cooperation. This involves the sharing of experiences and learning together, taking into particular account the demand for special training and education activities. Cooperation should intensify and become more productive as countries, working together over a period of time, discover the benefits of such cooperation and develop mechanisms for reaching their common goal.

III. Areas of cooperation

1. Activities involving the exploration and peaceful use of outer space which are conducted in accordance with the provisions of international law, including the Charter of the United Nations and the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space Including the Moon and Other Celestial Bodies, can be considered for international cooperation according to sections I and II, above. Such activities are for example:

(a) Remote sensing of the Earth from outer space including the observation of the Earth environment, management of natural and agricultural resources, oceanographic and meteorological observation and the prevention of natural disasters;

(b) The use of telecommunication services, including the improvement of the communications infrastructure in the fixed as well as mobile services, navigation and education services;

(c) Microgravity research and life science;

(d) Further manned and unmanned space exploration.

2. National and international agencies, research institutions, as well as organizations for development aid in industrialized and developing countries alike should consider the potential of space services, *inter alia*, through the exchange of results and data for reaching their development goals.

3. The United Nations Committee on the Peaceful Uses of Outer Space should be strengthened in its role as a forum for the exchange of information on national and international activities in the field of cooperation for the exploration and use of outer space.